

**REMARKS/ARGUMENTS**

Claims 1, 6, and 13 have been amended and claims 2-5, 7-12, and 14-20 remain unchanged. Thus, claims 1-20 are pending. No new matter has been added to the amended claims.

Claims 1-20 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-20 of co-pending Application No. 10/378,041. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-13, 15, and 17-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Atobe et al. (5,999,306).

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Atobe in view of Chan et al. (6,252,227).

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Atobe in view of Doherty (6,201,521).

***Double Patenting Rejection***

Applicant submits that since U.S. Application No. 10/378,041 has not yet matured into a patent, this is a provisional double patenting rejection and should be withdrawn once the other rejections in the present application have been overcome. See MPEP 804(I)(B) and 804(I)(C).

***Claim Rejections - 35 U.S.C. § 102(b)***

Claim 1 recites "generating a mask on a first side of a first substrate," "forming cavities in the first side of the first substrate," and "bonding the first side of the first substrate to the first side of the second substrate" among other elements. Applicants respectfully submit that the cited reference does not teach or suggest at least these claim elements.

An embodiment of the present invention provides a method of fabricating a spatial light modulator as illustrated in figures 9A to 9J. As illustrated in figure 9C, mask 940 is generated on a first side (layer 938) of a first substrate 934. In a specific embodiment, the mask is utilized in an anisotropic ion etching step to form cavities or "wells" in the first side (layer 938) of the first substrate as illustrated in figure 9D. (Specification at paragraphs 56 and 57).

The first substrate and a second substrate are bonded together with the first side of the first substrate bonded to the second substrate. (Specification at paragraph 60).

Atobe discusses a spatial light modulator in which a first substrate (silicon substrate 420) with a first side (boron doped layer 422) is anode bonded to a second substrate (glass electrode substrate 500). (Atobe at col. 19, lines 61-65 and figure 10B). However, rather than generating a mask layer on the first side of the first substrate, Atobe illustrates forming a mask layer (resist layer 424) on the second side of the first substrate. (Atobe at col. 21, lines 36-39 and figures 10E and 10F). Thus, with reference to figure 10, Atobe fails to teach or suggest at least "generating a mask on a first side of a first substrate." Thus, claim 1, as recited, is patently distinct from the cited reference and in a condition for allowance.

Claims 2-5, which depend from claim 1, are in a condition for allowance, for at least the reasons discussed in relation to claim 1, as well as for the additional limitations they recite.

Claim 6 recites "generating a first mask on a first side of a first substrate, the first mask defining areas to be etched from the first side of the first substrate" and "creating a reflective surface on the second side of the first substrate." As discussed in relation to claim 1, Atobe illustrates forming a mask layer (resist layer 424) on the second side of the first substrate. (Atobe at col. 21, lines 36-39 and figures 10E and 10F). For at least these reasons, claim 6 is patently distinct from the cited reference and in a condition for allowance.

Claims 7-12, which depend from claim 6, are in a condition for allowance, for at least the reasons discussed in relation to claim 6, as well as for the additional limitations they recite.

Claim 13 recites "generating a first mask on a first side of a first substrate, the first mask defining areas to be etched from the first side of the first substrate" and "creating a reflective surface on the second side of the first substrate." As discussed in relation to claims 1 and 6, Atobe illustrates forming a mask layer (resist layer 424) on the second side of the first substrate. (Atobe at col. 21, lines 36-39 and figures 10E and 10F). For at least these reasons, claim 6 is patently distinct from the cited reference and in a condition for allowance.

Claims 15, and 17-20, which depend from claim 13, are in a condition for allowance, for at least the reasons discussed in relation to claim 13, as well as for the additional limitations they recite.

***Claim Rejections - 35 U.S.C. § 103(a)***


Claims 14 and 16, which depend from claim 13, are in a condition for allowance, for at least the reasons discussed in relation to claim 13, as well as for the additional limitations they recite.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400, extension 5518.

Respectfully submitted,

  
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